

EXHIBIT 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X
5 ALPHA CAPITAL ANSTALT,

6 Plaintiff,

7 V. Case No. 19-cv-09270 (DLC)

8 INTELLIPHARMACEUTICS
9 INTERNATIONAL INC., ISA ODIDI,
10 AMINA ODIDI, and ANDREW PATIENT,

11 Defendants.

12 -----X

13
14 REMOTE DEPOSITION OF ARI KLUGER

15 (Via Zoom)

16 November 2, 2020

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23 Reported by:

24 Anita M. Trombetta, RMR, CRR

25 JOB NO. 185982

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 5 November 2, 2020
 6 10:00 A.M.
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 9 Remote Deposition of Ari Kluger, via
 10 Zoom, before Anita M. Trombetta, an RMR,
 11 CRR, and a Notary Public of the State of
 12 New York.
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 2 IT IS HEREBY STIPULATED AND AGREED
 3 by and between the attorneys for the
 4 respective parties herein, that filing and
 5 sealing be and the same are hereby waived.
 6 IT IS FURTHER STIPULATED AND AGREED
 7 that all objections, except as to the form
 8 of the question, shall be reserved to the
 9 time of the trial.
 10 IT IS FURTHER STIPULATED AND AGREED
 11 that the within deposition may be sworn to
 12 and signed before any officer authorized
 13 to administer an oath, with the same
 14 force and effect as if signed and sworn
 15 to before the Court.
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 2 APPEARANCES:
 3
 4 HOFFNER
 5 Attorneys for Plaintiff and the Witness
 6 800 3rd Avenue
 7 New York, New York 10022
 8 BY: DAVID HOFFNER, ESQ.
 9
 10
 11 WOLLMUTH MAHER & DEUTSCH
 12 Attorneys for Defendants
 13 500 Fifth Avenue
 14 New York, New York 10110
 15 BY: STEVEN FITZGERALD, ESQ.
 16 CHLOE BOOTH, ESQ.
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1 A. KLUGER
 2 ARI KLUGER,
 3 called as a witness, having been duly
 4 affirmed by a Notary Public, was examined
 5 and testified as follows:
 6 EXAMINATION BY:
 7 MR. FITZGERALD:
 8 Q. I'll ask. Mr. Kluger, please state
 9 your name and your address for the record.
 10 A. Ari Kluger, 23 Tammy Road, Spring
 11 Valley, New York 10977. I'm at my home. Do you
 12 want my business?
 13 Q. No, that's perfectly fine.
 14 Who is your current employer,
 15 Mr. Kluger?
 16 A. LH Financial.
 17 Q. And what is your role at LH
 18 Financial?
 19 A. I -- I am a -- involved in diligence
 20 with companies that come through our offices as
 21 potential investments.
 22 Q. Have you ever been deposed before,
 23 Mr. Kluger?
 24 A. Once, a long time ago.
 25 Q. And do you remember what matter that

1 A. KLUGER
 2 was?
 3 A. I believe it had to do with a minor
 4 car accident. So --
 5 Q. Sorry, I didn't mean to cut you off.
 6 So it wasn't in connection with your
 7 employment?
 8 A. No.
 9 Q. How long have you been employed by
 10 LH Financial?
 11 A. About 20 years.
 12 Q. What's your job title, if you know?
 13 A. I don't officially have a job title.
 14 Analyst, maybe possibly, but it's not an
 15 official title.
 16 Q. What did you do prior to joining LH
 17 Financial?
 18 A. This was pretty much my first job.
 19 Q. First job out of college or high
 20 school?
 21 A. College.
 22 Q. College. Where did you go to
 23 college?
 24 A. Brooklyn College.
 25 Q. And what did you study?

1 A. KLUGER
 2 entity called Alpha Capital Anstalt?
 3 A. Yes.
 4 Q. What is Alpha Capital?
 5 MR. HOFFNER: Objection.
 6 A. I believe -- I'm sorry, you broke up
 7 a little. I didn't hear what you said. Did
 8 someone else say something?
 9 MR. HOFFNER: I objected to the
 10 question. I didn't mean to throw you off.
 11 You can respond.
 12 A. My understanding is that Alpha
 13 Capital is a -- some sort of corporation/trust.
 14 Q. Okay. And I should have explained
 15 at the beginning some of the procedure here.
 16 Sometimes Mr. Hoffner might object. Unless he
 17 directs you not to answer the question, you
 18 still need to answer my question to the best of
 19 your ability.
 20 Okay?
 21 A. Okay.
 22 Q. And your responses to my question
 23 today need to be verbal. You can't nod your
 24 head or shake your head in response. It needs
 25 to be a verbal response.

1 A. KLUGER
 2 Business.
 3 Q. Did you get a degree?
 4 A. Yes.
 5 Q. Was that degree in business?
 6 A. Business and finance.
 7 Q. And then how did you come about to
 8 be employed by LH Financial? Did you respond
 9 to an advertisement? Did you know somebody
 10 there?
 11 A. I knew someone there.
 12 Q. Who did you know at LH Financial?
 13 A. Solomon Obsfeld.
 14 Q. And is Mr. Obsfeld still with the
 15 company?
 16 A. He passed ten years ago.
 17 Q. Who do you report to at LH
 18 Financial? In other words, who is your boss?
 19 A. Arie Rabinowitz.
 20 Q. And does he have a title that you
 21 know of?
 22 A. No.
 23 Q. And what's his role generally?
 24 A. He has a similar role.
 25 Q. Now, are you familiar with the

1 A. KLUGER
 2 Okay?
 3 A. Okay.
 4 Q. And is there anything that would
 5 affect your ability to testify truthfully and
 6 accurately today, that you're aware of?
 7 A. No.
 8 Q. You're not on any medications that
 9 could affect your ability to testify truthfully
 10 and accurately?
 11 A. No.
 12 Q. Is that right?
 13 And we're doing this by video,
 14 which -- I'm sure you've been on a million
 15 Zooms by now or similar conferences?
 16 A. Yes.
 17 Q. But you and I need to be careful not
 18 to talk over each other, otherwise Anita won't
 19 be able to write down what we say.
 20 Okay?
 21 A. Okay.
 22 Q. And we'll be going about an hour at
 23 a time. If for some reason you need to take a
 24 break before I stop, all I'm going to ask is
 25 that you finish the line of questions that's

<p>1 A. KLUGER</p> <p>2 outstanding or finish the -- answer the</p> <p>3 question that's outstanding.</p> <p>4 Is that okay with you?</p> <p>5 A. Yes.</p> <p>6 Q. So your understanding is that Alpha</p> <p>7 is a trust of some type.</p> <p>8 Is it a client of LH Financial?</p> <p>9 A. No.</p> <p>10 Q. Is it an entity that LH Financial</p> <p>11 created?</p> <p>12 A. No.</p> <p>13 Q. What is the relationship, if any,</p> <p>14 between Alpha and LH Financial?</p> <p>15 A. LH Financial simply addresses due</p> <p>16 diligence and onshore matters on behalf of</p> <p>17 Alpha Capital.</p> <p>18 Q. So LH is a service provider for</p> <p>19 Alpha?</p> <p>20 A. Yes.</p> <p>21 Q. Does LH Financial provide services</p> <p>22 for any other entity?</p> <p>23 A. No.</p> <p>24 Q. Was LH Financial created to support</p> <p>25 Alpha Capital?</p>	Page 10	Page 11
	Page 12	Page 13
		<p>1 A. KLUGER</p> <p>2 MR. HOFFNER: Objection.</p> <p>3 BY MR. FITZGERALD:</p> <p>4 Q. Can you estimate what -- roughly,</p> <p>5 proportion of Alpha Capital's portfolio over</p> <p>6 the last five years has been invested in</p> <p>7 pharmaceutical companies?</p> <p>8 MR. HOFFNER: Objection. How are</p> <p>9 you characterizing that? What's the</p> <p>10 percentage based on?</p> <p>11 MR. FITZGERALD: Holdings.</p> <p>12 MR. HOFFNER: I mean, based on the</p> <p>13 dollar amount of an investment?</p> <p>14 MR. FITZGERALD: Yeah, dollar amount</p> <p>15 of holdings.</p> <p>16 MR. HOFFNER: If you know.</p> <p>17 A. It would be very difficult for me to</p> <p>18 answer that question without more information.</p> <p>19 Q. Okay. So it's certainly not</p> <p>20 100 percent, right?</p> <p>21 A. No, it's not 100 percent.</p> <p>22 Q. So is it fair to say that Alpha</p> <p>23 Capital invests in a diverse group of sectors?</p> <p>24 A. Yes.</p> <p>25 Q. Can you describe for me the top</p>

<p>1 A. KLUGER</p> <p>2 Capital's purchase of IPC securities and the</p> <p>3 offering?</p> <p>4 A. You mean LH Financial's due</p> <p>5 diligence for Alpha Capital; is that what you</p> <p>6 mean?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. So what did LH Financial do?</p> <p>10 A. Reviewed the public filings,</p> <p>11 reviewed the company presentation, met with the</p> <p>12 CFO. That's about it, that I can remember.</p> <p>13 Q. Now, can I show you a similar topic</p> <p>14 for Alpha Capital. Let's look at that. Go</p> <p>15 back to Tab 1. Sorry we have to go through</p> <p>16 this, but --</p> <p>17 A. Okay.</p> <p>18 Q. -- we might as well be very careful</p> <p>19 about it. So if you go to the same topic 6 it</p> <p>20 says, "Any due diligence conducted concerning</p> <p>21 your purchase of the IPCI securities in the</p> <p>22 offering."</p> <p>23 Do you see that?</p> <p>24 A. Yeah.</p> <p>25 Q. What due diligence did Alpha Capital</p>	Page 38	Page 39
<p>1 A. KLUGER</p> <p>2 (An off-the-record discussion was</p> <p>3 held at this time.)</p> <p>4 MR. FITZGERALD: You can put it on</p> <p>5 the record if you're going to do this in</p> <p>6 the presence of the witness. If the</p> <p>7 witness wants to go on --</p> <p>8 THE WITNESS: Do you want me to step</p> <p>9 away?</p> <p>10 MR. FITZGERALD: Yeah, step away.</p> <p>11 Take a five-minute break.</p> <p>12 MR. HOFFNER: I'm happy to do this</p> <p>13 on the record, but quite frankly --</p> <p>14 (An off-the-record discussion was</p> <p>15 held at this time.)</p> <p>16 MR. FITZGERALD: Sorry about that.</p> <p>17 BY MR. FITZGERALD:</p> <p>18 Q. Sorry about that, Mr. Kluger. Your</p> <p>19 counsel and I had a discussion off the record.</p> <p>20 And we came to an agreement that Alpha Capital</p> <p>21 is not going to designate you as its 30(b)(6)</p> <p>22 witness for this deposition.</p> <p>23 A. Okay.</p> <p>24 Q. You are just going to proceed and</p> <p>25 testify in your capacity as an individual</p>	Page 40	Page 41

<p>1 A. KLUGER</p> <p>2 see the cover e-mail is an exchange between you</p> <p>3 and Yosef, and you guys are forwarding -- Yosef</p> <p>4 forwarded something to you.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. The subject is IPCI report, right?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recognize the document that</p> <p>10 he forwarded to you?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. It's an internal report describing</p> <p>14 the merits and -- you know, of the company.</p> <p>15 Q. Who prepared it?</p> <p>16 A. Yosef.</p> <p>17 Q. Did you review it when he sent it to</p> <p>18 you?</p> <p>19 A. Yes.</p> <p>20 Q. Did you consider this in -- well,</p> <p>21 ultimately LH Financial made a recommendation</p> <p>22 to Alpha Capital to buy securities in the</p> <p>23 offering; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And did you review this memo before</p>	Page 42	Page 43
<p>1 A. KLUGER</p> <p>2 recommended that Alpha Capital purchase</p> <p>3 Intellipharmaceutics securities in the</p> <p>4 offering? And feel free to reference the memo</p> <p>5 if that helps you refresh your recollection.</p> <p>6 MR. HOFFNER: Do you want to read</p> <p>7 the memo again? Please do if that's</p> <p>8 helpful.</p> <p>9 BY MR. FITZGERALD:</p> <p>10 Q. Yes. I'm not limiting your review.</p> <p>11 A. I made the recommendation based on</p> <p>12 review of the clinical part of the studies that</p> <p>13 they were working on and the compelling</p> <p>14 valuation of the stock.</p> <p>15 Q. Okay.</p> <p>16 A. As well as the management team with</p> <p>17 their extensive experience. That's pretty much</p> <p>18 it.</p> <p>19 Q. And does this memo contain the</p> <p>20 information that you used to develop your</p> <p>21 recommendation or was there other information</p> <p>22 that you relied upon?</p> <p>23 MR. HOFFNER: Objection. He didn't</p> <p>24 draft the memo. He stated already.</p> <p>25 BY MR. FITZGERALD:</p>	Page 44	Page 45

<p>1 A. KLUGER</p> <p>2 A. Do you still want me to answer this?</p> <p>3 Q. You can answer. The answer might</p> <p>4 be --</p> <p>5 A. Do you want -- do you want me to</p> <p>6 just explain what this means or --</p> <p>7 Q. Yeah, that would be helpful?</p> <p>8 A. It basically says that the clinical</p> <p>9 studies were underway and the NDA, which is the</p> <p>10 next phase in forward -- you know, moving</p> <p>11 forward on clinical studies is expected to</p> <p>12 be submitted -- actually resubmitted in this</p> <p>13 case -- and that's -- that's a milestone. It's</p> <p>14 an important milestone in a drug's life in how</p> <p>15 it's brought to market.</p> <p>16 Q. So there was an important drug</p> <p>17 application before the FDA; is that right?</p> <p>18 A. That was what was expected, yeah.</p> <p>19 Q. And do you know what drug it was?</p> <p>20 A. I don't recall.</p> <p>21 Q. Was it related to pain relief?</p> <p>22 A. I believe so.</p> <p>23 Q. Was it a safe version of something</p> <p>24 like oxycodone or something like that?</p> <p>25 A. Yes, I believe so.</p>	Page 46	Page 47
<p>1 A. KLUGER</p> <p>2 A. The Odidis.</p> <p>3 MR. HOFFNER: I just said, if you</p> <p>4 know, sorry.</p> <p>5 BY MR. FITZGERALD:</p> <p>6 Q. Now, the Odidis, they were part of</p> <p>7 the management team that was in charge of</p> <p>8 developing drugs and getting them approved,</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. So what was the importance of the</p> <p>12 CFO's role, if you know, of the company?</p> <p>13 A. Manages the finances of company.</p> <p>14 MR. HOFFNER: Objection.</p> <p>15 A. That's probably one of the most</p> <p>16 important parts when you're dealing with a</p> <p>17 drug.</p> <p>18 Q. Why?</p> <p>19 A. Because without proper finances you</p> <p>20 can't continue to develop the drugs.</p> <p>21 Q. Okay. Did -- so did Andrew Patient</p> <p>22 bring any expertise relating to drug</p> <p>23 formulation to the company?</p> <p>24 A. I don't remember. He was quite --</p> <p>25 he was knowledgeable about the drugs though.</p>	Page 48	Page 49

1 A. KLUGER
 2 MS. BOOTH: The document has been
 3 added.
 4 MR. FITZGERALD: Great.
 5 BY MR. FITZGERALD:
 6 Q. If you refresh, you should see it,
 7 it's Exhibit 5 to your deposition, Mr. Kluger.
 8 And it's an e-mail chain that the originating
 9 e-mail is from Noam Rubinstein to a list
 10 including yourself.
 11 Do you see that?
 12 A. Yes.
 13 Q. And it's – the subject line is:
 14 Intellipharmaceutics International IPCI
 15 registered public offering.
 16 And in the e-mail -- it's not
 17 attached to this version of the e-mail. It
 18 says: "Attached please find updated
 19 preliminary prospectus for your review."
 20 Do you see that?
 21 A. Yeah.
 22 Q. And then he -- did you ever review
 23 the preliminary prospectus. Do you recall
 24 reviewing it?
 25 A. I don't recall.

1 A. KLUGER
 2 which you did that?
 3 A. Yes.
 4 MR. HOFFNER: Objection. LH wasn't
 5 purchasing any, Steven. I don't know if
 6 you understand that.
 7 MR. FITZGERALD: I think I said on
 8 behalf of Alpha.
 9 MR. HOFFNER: You didn't, but that's
 10 fine.
 11 BY MR. FITZGERALD:
 12 Q. All right.
 13 So assuming it was effective, LH was
 14 committed to purchase up to \$2 million of
 15 securities in the offering on behalf of Alpha
 16 Capital as of October 11, 2018; is that right?
 17 A. At the time of that e-mail, yeah.
 18 Q. Got it. So then the next exhibit
 19 I'd like to show you is --
 20 MR. FITZGERALD: Chloe, it's Tab 8.
 21 (Kluger Exhibit 7, E-mail Chain,
 22 marked for identification.)
 23 MS. BOOTH: The document has been
 24 uploaded.
 25 MR. FITZGERALD: Great.

1 A. KLUGER
 2 Q. Do you see the information in
 3 Mr. Rubinstein's e-mail?
 4 A. Yeah.
 5 Q. Do you recall reviewing this e-mail?
 6 A. Yeah.
 7 Q. You do?
 8 A. Just -- yeah.
 9 Q. Okay. I only asked because you
 10 broke up a little and I couldn't hear you that
 11 well.
 12 Now, he writes in the second
 13 paragraph of his e-mail to you: "We are
 14 targeting to price tonight subject to S-1
 15 effectiveness. Please confirm your indication
 16 of interest for \$2 million in the offering."
 17 Do you see that?
 18 A. Yes.
 19 Q. And then you write : "Confirmed."
 20 Do you see that?
 21 A. Yes.
 22 Q. So was this the communication where
 23 you confirmed that LH Financial would purchase
 24 \$2 million of securities in the offering? Is
 25 this the communication with the underwriter in

1 A. KLUGER
 2 BY MR. FITZGERALD:
 3 Q. So if you refresh, you'll see
 4 Exhibit 7 to your deposition is an e-mail
 5 chain. So if you go to the second page of
 6 Exhibit 7, there is an e-mail from you to a
 7 number of people. Maybe I'll ask you to walk
 8 through who they are. So if you see -- you
 9 sent it to an address: info@alphacapital?
 10 MR. HOFFNER: Steven, it's
 11 Mr. Rabinowitz's e-mail.
 12 MR. FITZGERALD: Oh, I'm sorry. I'm
 13 sorry about that. I just looked at Ari and
 14 stopped there. Sorry about that.
 15 BY MR. FITZGERALD:
 16 Q. So Mr. Rabinowitz sent an e-mail
 17 to -- all right. You weren't copied on this.
 18 So Mr. Rabinowitz took the recommendation to
 19 Alpha Capital.
 20 Is that consistent with your
 21 understanding?
 22 A. Yes.
 23 Q. And he took that recommendation to
 24 them on October 11th, right?
 25 A. Yeah.

<p>1 A. KLUGER</p> <p>2 Q. And got approval the next day on</p> <p>3 October 12th, right?</p> <p>4 A. Yeah.</p> <p>5 Q. Okay. And in Mr. Rabinowitz's</p> <p>6 e-mails, he writes: "Please see attached new</p> <p>7 deal. This is a shelf being done at really low</p> <p>8 valuation. We are recommending \$2 million."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So now I'm going to ask you, in your</p> <p>12 capacity as a corporate representative of LH</p> <p>13 Financial, did you convey any other information</p> <p>14 to Alpha Capital concerning your recommendation</p> <p>15 to purchase a new offering?</p> <p>16 A. No.</p> <p>17 MR. HOFFNER: Just to be clear,</p> <p>18 there is an attachment to this e-mail</p> <p>19 that's not included as part of the exhibit,</p> <p>20 correct?</p> <p>21 THE WITNESS: Yeah.</p> <p>22 MR. FITZGERALD: Where do you see</p> <p>23 that?</p> <p>24 MR. HOFFNER: Well, it says, "Please</p> <p>25 see attached new deal." There is nothing</p>	Page 58	Page 59
<p>1 A. KLUGER</p> <p>2 Capital.</p> <p>3 Do you recall having any discussions</p> <p>4 with -- strike that.</p> <p>5 In your capacity as a corporate</p> <p>6 representative of LH Financial, did LH</p> <p>7 Financial have any discussions concerning</p> <p>8 Andrew Patient, other than the memorandum that</p> <p>9 you believe you forwarded -- or that</p> <p>10 Mr. Rabinowitz -- you believe Mr. Rabinowitz</p> <p>11 forwarded and with Alpha Capital?</p> <p>12 A. No.</p> <p>13 (Kluger Exhibit 9, Company</p> <p>14 Presentation, marked for identification.)</p> <p>15 MR. FITZGERALD: Let's mark what I</p> <p>16 have as Tab 3, Chloe.</p> <p>17 MS. BOOTH: Document has been</p> <p>18 uploaded.</p> <p>19 MR. FITZGERALD: Okay.</p> <p>20 BY MR. FITZGERALD:</p> <p>21 Q. So if we refresh it, we're going to</p> <p>22 see Exhibit 8.</p> <p>23 MS. BOOTH: It's Exhibit 9,</p> <p>24 actually.</p> <p>25 MR. FITZGERALD: Sorry. We've taken</p>	Page 60	Page 61

<p>1 A. KLUGER</p> <p>2 Q. Yeah, the road show meeting.</p> <p>3 A. We discussed the company. We</p> <p>4 discussed its initiatives, what it was going to</p> <p>5 be doing with the money, how we would be</p> <p>6 spending the money, and some details around the</p> <p>7 drugs, an overall -- it was an instruction and</p> <p>8 an overall review of the company and its</p> <p>9 going-forward initiatives.</p> <p>10 MR. HOFFNER: There was some</p> <p>11 additional voices in the background. I</p> <p>12 don't know where that's coming from, but</p> <p>13 can someone address that?</p> <p>14 THE WITNESS: I think it's probably</p> <p>15 from me. Hang on a second.</p> <p>16 MR. HOFFNER: Okay.</p> <p>17 (An off-the-record discussion was</p> <p>18 held at this time.)</p> <p>19 BY MR. FITZGERALD:</p> <p>20 Q. So earlier you mentioned that the</p> <p>21 meeting was in your office?</p> <p>22 A. Yes.</p> <p>23 Q. It was in a conference room or in</p> <p>24 your actual workspace?</p> <p>25 A. Conference room.</p>	<p>Page 62</p> <p>1 A. KLUGER</p> <p>2 Q. And who attended?</p> <p>3 A. Myself, Mr. Patient, and I don't</p> <p>4 remember if there was anybody else. I don't</p> <p>5 remember if Yosef was there.</p> <p>6 Q. How about -- was there a</p> <p>7 representative from the underwriter?</p> <p>8 A. Yes, I just don't recall who.</p> <p>9 Q. Fine. Do you remember any of the</p> <p>10 questions that you asked during that meeting?</p> <p>11 A. Specifically, I don't remember the</p> <p>12 words that I used for the questions, but I do</p> <p>13 remember asking about the company, asking about</p> <p>14 some of its -- the drugs that they were -- that</p> <p>15 they had in their pipeline, and I asked for the</p> <p>16 use of funds, what the funds would be used for.</p> <p>17 Q. Did you ask why Dr. Isa Odidi did</p> <p>18 not attend the meeting?</p> <p>19 A. Yes.</p> <p>20 Q. Were you told why?</p> <p>21 A. They had said he was traveling --</p> <p>22 not they, Andrew -- that he was traveling.</p> <p>23 Q. And were you upset that Dr. Odidi</p> <p>24 didn't attend the meeting?</p> <p>25 MR. HOFFNER: Objection.</p>	<p>Page 63</p>
<p>1 A. KLUGER</p> <p>2 A. I don't remember.</p> <p>3 Q. Would you have asked more detailed</p> <p>4 questions if Dr. Odidi had attended the</p> <p>5 meeting?</p> <p>6 MR. HOFFNER: Objection.</p> <p>7 A. Ask more detailed questions? I</p> <p>8 would have --</p> <p>9 MR. HOFFNER: It's a hypothetical.</p> <p>10 If you can answer that, go ahead.</p> <p>11 A. I don't know. I have no idea.</p> <p>12 Q. Yeah, okay. Fine.</p> <p>13 And you said the meeting went about</p> <p>14 an hour?</p> <p>15 A. I don't remember exactly, but yeah,</p> <p>16 approximately.</p> <p>17 Q. And after that meeting -- well --</p> <p>18 strike that.</p> <p>19 Before the meeting, had you decided</p> <p>20 that if the meeting went well, you would</p> <p>21 recommend the purchase of the securities in the</p> <p>22 offering?</p> <p>23 A. I don't remember.</p> <p>24 Q. What were your impressions after the</p> <p>25 meeting, if you recall?</p>	<p>Page 64</p> <p>1 A. KLUGER</p> <p>2 A. I don't recall.</p> <p>3 MR. FITZGERALD: Chloe, can you pull</p> <p>4 up Tab 14. I don't know what you have that</p> <p>5 marked as. Before you do that, you can</p> <p>6 bring it into the folder, but I want to</p> <p>7 talk a little bit more about Exhibit 9.</p> <p>8 Sorry about that, Mr. Kluger.</p> <p>9 BY MR. FITZGERALD:</p> <p>10 Q. So if you scroll through and you go</p> <p>11 to the fifth slide.</p> <p>12 MR. HOFFNER: Corporate highlights</p> <p>13 at the top?</p> <p>14 BY MR. FITZGERALD:</p> <p>15 Q. Yes, sir. Do you see that,</p> <p>16 Mr. Kluger?</p> <p>17 A. Yeah.</p> <p>18 Q. And then it talks about products in</p> <p>19 the pipeline, right?</p> <p>20 A. Yeah.</p> <p>21 Q. And that was part of your investment</p> <p>22 thesis and recommendation, that the company had</p> <p>23 products in the pipeline, right?</p> <p>24 A. Yes.</p> <p>25 Q. On the next slide, slide 6, did you</p>	<p>Page 65</p>

<p>1 A. KLUGER</p> <p>2 take into consideration the number of issued</p> <p>3 patents that the company held in your</p> <p>4 investment theses. Was that important to you?</p> <p>5 MR. HOFFNER: Objection.</p> <p>6 A. Yeah.</p> <p>7 Q. What's an ANDA approval, if you</p> <p>8 know?</p> <p>9 A. I'm not sure what the A is.</p> <p>10 Q. Okay.</p> <p>11 What is the NDA approval?</p> <p>12 A. What does it stand for?</p> <p>13 Q. Yeah, sorry. I don't know either?</p> <p>14 A. New drug approval.</p> <p>15 Q. New drug approval. Okay.</p> <p>16 A. It's application. New drug</p> <p>17 application. Sorry. Sorry -- A is probably</p> <p>18 amended, but I don't know.</p> <p>19 Q. So it appears that they had a</p> <p>20 product called oxycodone ER.</p> <p>21 Do you see that; does that refresh</p> <p>22 your recollection as to one of the drugs in the</p> <p>23 pipeline?</p> <p>24 A. Yeah.</p> <p>25 Q. And how about that other drug</p>	Page 66	<p>1 A. KLUGER</p> <p>2 Regabatin XR.</p> <p>3 Do you see that?</p> <p>4 A. Yeah.</p> <p>5 Q. Do you know what that is?</p> <p>6 A. I don't recall.</p> <p>7 Q. So if you scroll through the slides,</p> <p>8 does it refresh your recollection about</p> <p>9 anything that occurred during the meeting?</p> <p>10 And I'm not asking you to do a detailed review.</p> <p>11 I'm just looking to see if I can jog your</p> <p>12 memory.</p> <p>13 MR. HOFFNER: Objection.</p> <p>14 A. I remember discussing these</p> <p>15 different drugs in the pipeline.</p> <p>16 Q. Okay. That's all I have on that.</p> <p>17 You can put it away. So if we go to the</p> <p>18 document I asked --</p> <p>19 (Kluger Exhibit 16, E-mail to Yosef</p> <p>20 Milgrom dated October 29, 2018, marked for</p> <p>21 identification.)</p> <p>22 MR. HOFFNER: Refresh?</p> <p>23 MR. FITZGERALD: Yes, hit refresh.</p> <p>24 MS. BOOTH: I'm sorry. Which one was</p> <p>25 that again?</p>	Page 67
<p>1 A. KLUGER</p> <p>2 MR. FITZGERALD: Tab 14.</p> <p>3 MS. BOOTH: Document has been</p> <p>4 uploaded.</p> <p>5 BY MR. FITZGERALD:</p> <p>6 Q. So hit refresh and we're going to</p> <p>7 see what has been previously marked as</p> <p>8 Exhibit 16, which we've marked as Defendant's</p> <p>9 Exhibit 16 for today.</p> <p>10 MR. HOFFNER: Okay. So we're going</p> <p>11 out of order.</p> <p>12 Is it too late to just give an</p> <p>13 exhibit number -- a continuous exhibit</p> <p>14 number?</p> <p>15 MR. FITZGERALD: Yes, sorry. The</p> <p>16 way we had to do this just because we are</p> <p>17 coordinating marking these from other</p> <p>18 places.</p> <p>19 BY MR. FITZGERALD:</p> <p>20 Q. So on October 29, 2018, you wrote --</p> <p>21 well, you sent an e-mail to Mr. Milgrom.</p> <p>22 Do you see that?</p> <p>23 A. Yeah.</p> <p>24 Q. And the subject is: "Who did we</p> <p>25 meet from IPCI?"</p>	Page 68	<p>1 A. KLUGER</p> <p>2 Do you see that?</p> <p>3 A. Okay.</p> <p>4 Q. Do you see it?</p> <p>5 A. Yeah.</p> <p>6 Q. And you wrote: "Was is Andrew</p> <p>7 Patient."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. You probably meant to write: Was it</p> <p>11 Andrew Patient, right?</p> <p>12 A. Probably.</p> <p>13 Q. So -- so later in the month you</p> <p>14 couldn't recall specifically who you met with</p> <p>15 from IPCI; is that right?</p> <p>16 A. Not who, but maybe what his name</p> <p>17 was.</p> <p>18 Q. So why did you send this e-mail to</p> <p>19 Mr. Milgrom?</p> <p>20 A. I don't remember.</p> <p>21 Q. So you couldn't remember Andrew</p> <p>22 Patient's name later on?</p> <p>23 MR. HOFFNER: (Inaudible.)</p> <p>24 A. It's possible. I meet CFOs and</p> <p>25 CEOs.</p>	Page 69

1 A. KLUGER
 2 In 2018, do you know how many
 3 positions you recommended purchasing?
 4 A. No.
 5 Q. How about in the last year, do you
 6 know roughly how many positions you've
 7 recommended purchasing?
 8 A. In the last year?
 9 Q. Yeah.
 10 A. In 2020.
 11 Q. If that's helpful.
 12 A. It would be a guess, but I would say
 13 about ten -- ten or 12.
 14 Q. Okay. And is that less
 15 recommendations than you'd normally made in
 16 years past, or more relative to --
 17 MR. HOFFNER: Objection.
 18 A. Every year is different. It's very
 19 hard to say. Based on market conditions and,
 20 you know, companies that we see.
 21 Q. All right.
 22 MR. FITZGERALD: Chloe, mark Tab 9,
 23 please.
 24 (Kluger Exhibit 13, E-mail Chain,
 25 marked for identification.)

1 A. KLUGER
 2 e-mail that's from you to Marianna -- Marina?
 3 A. Marina.
 4 Q. Marina Portnoy?
 5 A. Portnoy.
 6 Q. Who is she?
 7 A. She works at the office.
 8 Q. And what's her role, generally?
 9 A. Assistant, I'd say.
 10 Q. And on October 12, was the date of
 11 the offering, right?
 12 A. I don't remember, but if that's what
 13 it was.
 14 Q. Okay. I'm not --
 15 A. I don't have it written down in
 16 front of me.
 17 Q. That's fine.
 18 The -- you write: "Please put in
 19 two separate exercises for 250K warrants each?"
 20 Do you see that?
 21 A. Yes.
 22 Q. Let's talk a little bit more about
 23 the structure of this transaction. When -- you
 24 acquired units, right, or LH Financial acquired
 25 them on behalf of Alpha Capital, right?

1 A. KLUGER
 2 MS. BOOTH: The document has been
 3 uploaded.
 4 BY MR. FITZGERALD:
 5 Q. This one is Exhibit 13, again. I'm
 6 sorry. We're going a little bit out of order.
 7 This -- feel free to scroll through
 8 it, but Defendant's Exhibit 13 is an e-mail
 9 chain. It attaches?
 10 MR. HOFFNER: I'm sorry, I don't
 11 have this yet.
 12 MR. FITZGERALD: Did you refresh?
 13 MR. HOFFNER: I did.
 14 THE WITNESS: I have it. It's the
 15 one before we just did.
 16 MR. HOFFNER: Oh, okay. I'm sorry.
 17 Got it.
 18 BY MR. FITZGERALD:
 19 Q. Mr. Kluger, this attaches the
 20 prefunded common share purchase warrant
 21 agreement relating to the Intellipharmaceutics
 22 offering. I'm not going to ask you questions
 23 about that.
 24 A. Okay.
 25 Q. I'm really going to focus on the top

1 A. KLUGER
 2 A. Yes, mm-hmm.
 3 Q. Do you remember how many? And if
 4 you don't, that's fine. We will look at a
 5 document later on that will show us how many,
 6 but do you remember sitting here today how
 7 many --
 8 A. I don't remember the exact amount,
 9 no.
 10 Q. And what was a unit; do you
 11 remember?
 12 A. Looking back now at this document, I
 13 see that it's a warrant and a prefunded
 14 warrant.
 15 MR. HOFFNER: Let me just direct the
 16 witness. If you're just reading the
 17 document, you're not testifying, and just
 18 make clear you're just reading the
 19 document. He's asking you for your
 20 independent recollection.
 21 A. Yeah, so I recollect that it was
 22 a -- after reading the documents, I recollect
 23 that there was a prefunded warrant and a
 24 warrant.
 25 Q. Right. And what does that mean?

<p>1 A. KLUGER</p> <p>2 A. Since there are a certain amount of</p> <p>3 shares outstanding and an investor can't exceed</p> <p>4 a certain ownership level, they sell something</p> <p>5 called a prefunded warrant which allows you to,</p> <p>6 after the offering is completed, get common</p> <p>7 shares as you exercise them.</p> <p>8 Q. So why can't an investor take a</p> <p>9 position over a certain percentage?</p> <p>10 MR. HOFFNER: Objection.</p> <p>11 A. An investor doesn't want to be</p> <p>12 deemed an insider and over 10 percent would be</p> <p>13 deemed an insider.</p> <p>14 Q. So they were structured so you</p> <p>15 wouldn't be considered a shareholder until you</p> <p>16 exercised a warrant; is that right?</p> <p>17 MR. HOFFNER: Objection.</p> <p>18 A. Yes.</p> <p>19 Q. The holder of the unit had the right</p> <p>20 to exercise that warrant for a price, right?</p> <p>21 A. Yes.</p> <p>22 Q. And that price was one cent for each</p> <p>23 share, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So why was LH, on behalf of Alpha</p>	Page 78	<p>1 A. KLUGER</p> <p>2 Capital, exercising warrants shortly after it</p> <p>3 acquired the units?</p> <p>4 A. To own shares.</p> <p>5 Q. Okay. And why did LH Financial, on</p> <p>6 behalf of Alpha Capital, want to own shares</p> <p>7 shortly after the offering?</p> <p>8 A. We were purchasing shares in the</p> <p>9 company. That's -- we were purchasing -- not</p> <p>10 we. Alpha Capital was purchasing shares in the</p> <p>11 company and it wanted to have shares in its</p> <p>12 account.</p> <p>13 Q. Did Alpha -- strike that.</p> <p>14 Didn't Alpha sell securities shortly</p> <p>15 after it exercised the warrants?</p> <p>16 MR. HOFFNER: Objection.</p> <p>17 A. I didn't hear the question. Please</p> <p>18 repeat it.</p> <p>19 Q. Sorry. Shortly after Alpha</p> <p>20 exercised these warrants, did Alpha sell the</p> <p>21 shares that it acquired?</p> <p>22 A. I don't recall. It may have.</p> <p>23 Q. Let's look at those sheets that we</p> <p>24 talked about earlier.</p> <p>25 MR. FITZGERALD: Chloe, I think</p>	Page 79
<p>1 A. KLUGER</p> <p>2 it's Tab 23.</p> <p>3 (Kluger Exhibit 10, Sales Ledger,</p> <p>4 marked for identification.)</p> <p>5 MS. BOOTH: The document has been</p> <p>6 uploaded.</p> <p>7 BY MR. FITZGERALD:</p> <p>8 Q. So if you hit refresh. So it's ten.</p> <p>9 It will be the tenth document in this share</p> <p>10 file.</p> <p>11 A. I see it.</p> <p>12 Q. And it's Exhibit 10 to your</p> <p>13 deposition.</p> <p>14 A. It hasn't loaded yet. One second.</p> <p>15 Q.</p> <p>16 A. Okay. It's loaded.</p> <p>17 Q. Do you recognize this document?</p> <p>18 A. I do.</p> <p>19 Q. And what is it?</p> <p>20 A. It's a ledger which shows certain</p> <p>21 sales of the shares.</p> <p>22 Q. Does it also show purchases?</p> <p>23 A. I don't see any purchases on this</p> <p>24 sheet.</p> <p>25 Q. Do you know who prepared this</p>	Page 80	<p>1 A. KLUGER</p> <p>2 ledger?</p> <p>3 A. Yes.</p> <p>4 Q. Who prepared it?</p> <p>5 A. Mr. Reinhold.</p> <p>6 Q. I'm sorry, what's Mr. Reinhold's</p> <p>7 first name?</p> <p>8 A. Samuel.</p> <p>9 Q. And is he an employee of LH</p> <p>10 Financial or Alpha Capital? I know you</p> <p>11 mentioned this earlier, but I forgot.</p> <p>12 A. No.</p> <p>13 Q. What's his role?</p> <p>14 A. He does the accounting work.</p> <p>15 Q. Okay. So he's the bookkeeper for LH</p> <p>16 Financial or Alpha Capital?</p> <p>17 A. Yes.</p> <p>18 Q. Both?</p> <p>19 A. Yes.</p> <p>20 Q. So are you prepared to testify on</p> <p>21 behalf of LH Financial as to what this</p> <p>22 document -- what information is in this</p> <p>23 document?</p> <p>24 A. Yes.</p> <p>25 Q. So if we go to the top, it says:</p>	Page 81

1 A. KLUGER
 2 Now, if you look at Exhibit 10,
 3 where do we see that sale or did we see that
 4 sale?
 5 A. I don't see it on Exhibit 10.
 6 Q. Okay. And I take it you don't know
 7 why it's not on there or if it should be on
 8 there?
 9 A. I'm not sure why it wouldn't be on
 10 here or if it should be on here.

11 Q. Okay. Got it.
 12 MR. HOFFNER: I just want to point
 13 out to the witness that the document you're
 14 referring to is -- is it a document
 15 exclusively for the offering shares, that's
 16 what it says, that's the title of the
 17 document.

18 BY MR. FITZGERALD:

19 Q. Yes, Exhibit 10 relates to the
 20 offering shares. So I guess to address your
 21 counsel's speaking objection, is it possible
 22 that the securities sold that I've shown you in
 23 Exhibit 12, the page ending in 736, they could
 24 be securities that were acquired outside of the
 25 offering.

1 A. KLUGER
 2 A. Yes.
 3 Q. So let's -- I'm going to circle back
 4 to that because we have a list of the
 5 securities acquired outside of the offering and
 6 we'll see if it's on there, but I want to walk
 7 through, because I don't want to ask you to
 8 open up three documents at a time because that
 9 would be a little unwieldy. So we'll circle
 10 back to that.

11 So going back to Exhibit 12 now,
 12 which is the brokerage statement.
 13 A. Okay.
 14 Q. I'm going to direct you to page --
 15 the page that ends in 671. And we had some
 16 sales on 12/5/2018, 12/6/2018, and I guess if
 17 you look at the page prior to that, there was
 18 one on 12/4 -- no, there is a purchase on
 19 12/4/2018.

20 Do you see that?
 21 A. Yeah.
 22 Q. So the purchase on 12/4/2018 was
 23 outside of the offering, obviously, right?
 24 A. Yes.
 25 Q. While we're on the subject, why did

1 A. KLUGER
 2 LH recommend to Alpha in December of 2018 that
 3 it purchase additional shares or -- yeah,
 4 shares of Intellipharmaceutics?
 5 A. I don't -- I don't recall the -- the
 6 specific reason why LH would have recommended
 7 Alpha purchase shares. The only thing I can
 8 think of is that it may have possibly been to
 9 average down its cost basis.

10 Q. Why?
 11 A. Why?
 12 Q. Yeah, why would they want to do
 13 that?

14 MR. HOFFNER: Objection.
 15 A. To get a better price on the stock.
 16 Q. How does averaging down the price
 17 basis get a better price on the stock?
 18 A. If you purchase stock at a certain
 19 price and the stock dips below that price, if
 20 you want to lower your cost basis, you would
 21 purchase at that lower price thereby bringing
 22 the average somewhere in between where you
 23 originally purchased the stock and that lower
 24 price.
 25 Q. So in other words, the shares were

1 A. KLUGER
 2 valued at an attractive price; is that the
 3 reason for the purchase?
 4 MR. HOFFNER: Objection.
 5 A. It was priced lower.
 6 Q. Okay. And do you recall when
 7 Mr. Patient -- strike that.

8 Do you recall when the company
 9 announced that Mr. Patient had resigned?

10 A. I don't.
 11 Q. Do you know if this purchase was
 12 before or after Mr. Patient resigned?
 13 A. I don't know. I don't remember.
 14 Q. Would you have recommended that
 15 Alpha purchase shares in Intellipharmaceutics
 16 if you had known that Mr. Patient resigned?
 17 MR. HOFFNER: Objection, when?

18 When is your question? What time frame are
 19 we talking about?

20 BY MR. FITZGERALD:
 21 Q. Well, in December 2018, would you
 22 have recommended that Alpha purchase shares of
 23 Intellipharmaceutics if you'd known that
 24 Mr. Patient was going to resign?
 25 MR. HOFFNER: Objection.

1 A. KLUGER
 2 A. I don't know what the reason is that
 3 I asked -- I suggested that Alpha purchase the
 4 shares of the company.
 5 Q. I'm sorry. I didn't mean to cut
 6 off. Please finish.
 7 A. One may not have anything to do with
 8 the other.
 9 Q. So you could have recommended that
 10 Alpha purchase shares of Intellipharmaceutics,
 11 even if you had known that Mr. Patient was
 12 going to resign before the end of 2018, in
 13 December 2018?
 14 MR. HOFFNER: Objection.
 15 A. I don't remember what the reason was
 16 for asking to purchase more shares or
 17 recommending to purchase more shares.
 18 Q. So it's not your testimony that you
 19 would not recommend -- strike that.
 20 That's too many --
 21 So sitting here today, you're not
 22 testifying that you would never recommend that
 23 Alpha purchase Intellipharmaceutics shares if
 24 you had known that Mr. Patient was resigning;
 25 is that right?

1 A. KLUGER
 2 shows that on the 18th of December 2019, there
 3 were 12,247 shares that were sold.
 4 Do you see that?
 5 A. On -- say that -- on which date,
 6 what date? December 19th?
 7 Q. December 18th --
 8 A. 18th, yeah.
 9 Q. -- 2019. Do you see that?
 10 Exhibit 10 is showing that there were --
 11 A. 12,000 --
 12 Q. Yeah, 12,247. And we're not seeing
 13 that on the brokerage statement.
 14 MR. HOFFNER: Is that a question?
 15 BY MR. FITZGERALD:
 16 Q. Do you see that on the brokerage
 17 statement?
 18 A. I would have to look.
 19 (Document review.)
 20 A. I don't see it on this exhibit.
 21 MR. HOFFNER: I will say, it's
 22 unclear to me -- it could be there is
 23 possibly a missing page here because I'm --
 24 I'll certainly inquire, because it does
 25 seem strange that this document is a

1 A. KLUGER
 2 MR. HOFFNER: Objection. Objection.
 3 A. Say that again.
 4 Q. Sorry, that was a bad question.
 5 Fair enough.
 6 So, look, on December 4, 2018,
 7 Alpha, at LH's recommendation purchased 161,433
 8 shares of Intellipharmaceutics, right?
 9 A. Yes.
 10 Q. And you're not testifying that you
 11 recommended that purchase because Andrew
 12 Patient was a good CFO, right?
 13 MR. HOFFNER: Objection.
 14 A. I'm testifying that I don't remember
 15 the reason for me suggesting or recommending
 16 that Alpha purchase shares in the open market.
 17 Q. Okay. So it's possible that you
 18 knew that Mr. Patient was resigning, but you
 19 recommended that Alpha purchase the shares
 20 anyway, right?
 21 MR. HOFFNER: Objection.
 22 A. I don't remember.
 23 Q. Okay. See if we can get more
 24 certain around that.
 25 So if we look at Exhibit 10, it

1 A. KLUGER
 2 statement through 12/31 stops on 12 --
 3 shows a final one on 12/6.
 4 MR. FITZGERALD: It may have just
 5 been over-redacted. So I think what we did
 6 is we took out the totally redacted pages
 7 so there weren't extraneous pages. We will
 8 have to confirm there wasn't some sort of
 9 accident there.
 10 MR. HOFFNER: Again, you have made
 11 this exhibit. It's unclear to me whether
 12 this is the full statement for that month.
 13 Obviously there's some missing pages, which
 14 is weird, because you've got this -- a
 15 final page, so you've pulled out pages. So
 16 this is not -- I have to object to this
 17 exhibit now because it's missing pages. It
 18 may be that there was over-redaction like
 19 you said. It may be that there was a
 20 nonredacted item that somehow got omitted
 21 from here. I can't tell because the pages
 22 weren't here.
 23 MR. FITZGERALD: Fair enough. We
 24 will work it out. Our intention -- we
 25 removed the pages that were fully redacted.

1 A. KLUGER
 2 that were acquired in the offering and were
 3 subsequently sold, right?
 4 A. Yes.
 5 Q. And each spreadsheet showed two
 6 separate sales on February 22, 2019; is that
 7 right?
 8 MR. HOFFNER: Objection.
 9 BY MR. FITZGERALD:
 10 Q. I'll fix the question.
 11 Each spreadsheet showed a single
 12 sale on February 22, 2019, of 119,527 shares,
 13 right?
 14 A. Yes.
 15 Q. So between the two spreadsheets,
 16 there is a disclosure of two separate sales of
 17 119,527 shares on February 22, 2019, right?
 18 MR. HOFFNER: Objection.
 19 A. Yes.
 20 Q. And my question is: Do you know why
 21 the brokerage statement doesn't reflect two
 22 separate sales?
 23 A. No, I don't know why.
 24 MR. FITZGERALD: And I guess I'll
 25 just put on the record that we'll ask

1 A. KLUGER
 2 counsel to look into that, and we'll follow
 3 up on that.
 4 MR. HOFFNER: Look, obviously, it's
 5 possible that there was an error made by
 6 the accountant.
 7 THE WITNESS: Yeah.
 8 MR. FITZGERALD: It's possible,
 9 right. And we should work that out now
 10 rather than later.
 11 BY MR. FITZGERALD:
 12 Q. While I have you on Exhibit 11, this
 13 format follows the format of Exhibit 10, right?
 14 A. Yes.
 15 Q. So the only -- the format is the
 16 same, but instead of indicating that shares
 17 were received or delivered, or warrants were
 18 received or delivered, this shows that shares
 19 were bought, right?
 20 A. Yes.
 21 Q. And that's because Alpha wasn't
 22 exercising a warrant related to units acquired
 23 in the offering, right?
 24 A. Yes.
 25 Q. It was just buying shares on the

1 A. KLUGER
 2 open market, right?
 3 A. Yes.
 4 Q. So this shows that Alpha acquired
 5 279,618 shares on December 3, 2018, right?
 6 A. Yes.
 7 Q. And we talked about your
 8 recollection of those -- of those shares.
 9 Now, as LH's corporate
 10 representative, why did LH recommend that Alpha
 11 acquire those shares in December 2018?
 12 MR. HOFFNER: Objection. Asked and
 13 answered. We just went through this.
 14 MR. FITZGERALD: No, that was in his
 15 personal capacity.
 16 BY MR. FITZGERALD:
 17 Q. If it's the same as your personal
 18 capacity say, LH -- as the corporate
 19 representative I give the same testimony,
 20 something to that effect?
 21 A. As to the corporate representative,
 22 I give the same testimony.
 23 Q. So as the corporate
 24 representative -- your testimony wouldn't be
 25 any different as LH's corporate representative?

1 A. KLUGER
 2 A. Yes.
 3 Q. So it looks like -- I guess we'll do
 4 this on the record. Mr. Kluger, if you look at
 5 Tab 12 and the page that ends in 670, if you
 6 look at the brokerage statement, it indicates
 7 that 161,433 shares were acquired on
 8 December 4, 2018, right?
 9 MR. HOFFNER: What page is that?
 10 I'm sorry.
 11 MR. FITZGERALD: Exhibit 12, ends in
 12 670.
 13 MR. HOFFNER: 670. Thank you.
 14 BY MR. FITZGERALD:
 15 Q. And on the spreadsheet that I gave
 16 you at Exhibit 11 shows 279,618, right?
 17 A. No. If you look at the next page
 18 there was -- it says two more purchases.
 19 BY MR. FITZGERALD:
 20 Q. Oh, okay. You're right. Never
 21 mind. We'll figure that out. That's why I
 22 asked you. Let me make sure I'm done with
 23 that. Okay. I am. I'm done with that. We
 24 can thankfully shut these down.
 25 I will ask you to go back to 10

1 A. KLUGER
 2 Mr. Patient told you about the drugs that
 3 Intellipharmaceutics was developing?
 4 MR. HOFFNER: Objection.
 5 A. Specific to the drugs?
 6 Q. Yeah.
 7 A. He described the timelines that --
 8 the company was going to try to meet in their
 9 development of the drug.
 10 Q. Did he give you any technical
 11 information about how the drugs worked or other
 12 products in the pipeline for
 13 Intellipharmaceutics?
 14 MR. HOFFNER: Other than it was in
 15 the PowerPoint presentation that he
 16 previously marked?
 17 BY MR. FITZGERALD:
 18 Q. No, just what he -- what you recall
 19 him telling you, that's all I'm asking.
 20 A. He went through the presentation,
 21 explained the different uses for the drugs, the
 22 timelines involved in bringing the drugs -- you
 23 know, getting them approved, bringing them to
 24 market, the uses of funds that were going to be
 25 necessary to bring them to market, and how he

1 A. KLUGER
 2 would aid and assist in getting that done.
 3 MR. FITZGERALD: Let's show him
 4 another one, Chloe. Let's go to Tab 18.
 5 (Kluger Exhibit 19, E-mail to Isa
 6 Odidi dated November 28, 2018, marked for
 7 identification.)
 8 MR. HOFFNER: Is this a good time
 9 for a five-minute break since we've been
 10 going about 50 minutes?
 11 MR. FITZGERALD: Yeah, sure.
 12 MR. HOFFNER: Reconvene at 1:25?
 13 MR. FITZGERALD: 1:25 it is.
 14 (Recess.)
 15 MR. FITZGERALD: So Chloe, cue up
 16 Tab 18.
 17 BY MR. FITZGERALD:
 18 MR. FITZGERALD: So Exhibit 19 to
 19 your deposition, Mr. Kluger, is an e-mail
 20 dated November 28, 2018, that you sent to
 21 Isa Odidi, CEO of Intellipharmaceutics.
 22 Do you see that.
 23 A. No. 19?
 24 Q. I believe it's No. 19. Let me
 25 confirm. Yes.

1 A. KLUGER
 2 A. Yeah.
 3 Q. Okay. Do you remember sending this
 4 e-mail?
 5 A. Yes.
 6 Q. Okay. And why did you send this
 7 e-mail to Dr. Odidi?
 8 A. Because I believe it was after the
 9 CFO had resigned and I had some questions
 10 surrounding that.
 11 Q. Okay. So you wrote, "I was one of
 12 the investors in the last deal that was done
 13 through H.C. Wainwright. I never spoke with
 14 you but met with the company's former CFO,
 15 Andrew."
 16 Right?
 17 A. Yes.
 18 Q. So his resignation had been
 19 announced at this time, right?
 20 A. Yes.
 21 Q. And does that refresh your
 22 recollection as to whether the purchases that
 23 Alpha Capital made in December 2018 were after
 24 Mr. Patient resigned?
 25 A. Yes.

1 A. KLUGER
 2 Q. And so you did, in fact, recommend
 3 that Alpha purchase Intellipharmaceutics shares
 4 after Andrew Patient resigned from
 5 Intellipharmaceutics, right?
 6 A. Yes.
 7 MR. HOFFNER: Steven, just to
 8 clarify, I think what -- really what you're
 9 asking is announce his resignation, because
 10 as it was announced he was leaving as of
 11 the year end.
 12 MR. FITZGERALD: That's not helpful,
 13 but that's fine.
 14 MR. HOFFNER: I was just clarifying
 15 the record.
 16 BY MR. FITZGERALD:
 17 Q. So obviously your recommendation --
 18 strike that.
 19 Your recommendation to purchase
 20 Intellipharmaceutics shares wasn't premised on
 21 Andrew Patient's continuing to be CFO, was it?
 22 MR. HOFFNER: Objection.
 23 A. Again, I don't remember what the
 24 reason was for the purchase of the shares.
 25 Q. Okay. Do you remember when the

1 A. KLUGER
 2 company announced that Mr. Patient would be
 3 resigning, that they also announced that he
 4 would be staying on in a consulting capacity?
 5 A. I vaguely recall that.
 6 Q. Was that important to you?
 7 A. No.
 8 Q. Why not?
 9 A. Because the essence of that -- of
 10 that point, of that announcement was that he
 11 was resigning, not that he was staying on as a
 12 consultant.
 13 Q. But you still recommended that Alpha
 14 purchase Intellipharmaceutics shares after you
 15 knew Patient had resigned, right?
 16 A. Yes.
 17 MR. HOFFNER: Objection. Same
 18 objection as before.
 19 A. Yes, but one has nothing to do with
 20 the other, necessarily.
 21 Q. All right. Do you recall speaking
 22 to Dr. Odidi after you sent this e-mail on
 23 November 28, 2018?
 24 A. Yes.
 25 Q. When did you speak to him

1 A. KLUGER
 2 Q. So what you're saying is you left
 3 the conversation with an impression, but you
 4 can't tell me what Dr. Odidi said; is that
 5 right?
 6 MR. HOFFNER: Objection.
 7 A. I'm saying that he made it very
 8 clear that he was aware that at the time of the
 9 offering he knew that the CFO was leaving, but
 10 I don't know the exact words he used to tell me
 11 it.
 12 Q. I'm not asking for the exact words.
 13 I'm asking for the best recollection --
 14 A. The best recollection that I have --
 15 Q. Let me get a clean question.
 16 A. Go ahead.
 17 Q. I'm asking you what your
 18 recollection is of what he said to you. I'm
 19 not asking for a verbatim transcript.
 20 A. So my answer to that is, is that my
 21 recollection is, is that he was -- he was clear
 22 that he was knowledgeable that Andrew Patient
 23 leaving at the time the offering was happening.
 24 And that he was handling it. He was finding
 25 somebody else in the meantime to deal with it

1 A. KLUGER
 2 approximately, relative to this e-mail?
 3 A. That I don't recall.
 4 Q. What did you discuss with Dr. Odidi?
 5 A. I discussed that I was unhappy that
 6 the CFO resigned so soon after the deal -- the
 7 offering was made. I wasn't happy that the CFO
 8 that presented the company was resigning so
 9 soon after the offering was made, and I wanted
 10 to know what the company had planned for the
 11 future.
 12 Q. And what did he tell you?
 13 A. He said they were working on finding
 14 a replacement.
 15 Q. Anything else?
 16 A. I don't remember the exact words
 17 that he used, but he made it clear that he was
 18 aware that Mr. Patient was leaving at the time
 19 that the offering transpired.
 20 Q. And how did he make that clear to
 21 you?
 22 A. He said it. I don't remember how --
 23 what the words he used were, but he said it.
 24 Q. What word did he say?
 25 A. I don't remember.

1 A. KLUGER
 2 now that he announced it.
 3 Q. So that's the closest you can get to
 4 a recollection of his -- the conversation you
 5 had with him -- strike that.
 6 How did the subject of the timing of
 7 Dr. Odidi's awareness come up?
 8 A. He just said it. He just said it
 9 outright.
 10 Q. And he said: As of October 12,
 11 2018, I knew that Andrew Patient had resigned;
 12 is that what he said?
 13 A. He didn't say that date. He said,
 14 "I knew about it before the offering."
 15 Q. He knew about what?
 16 A. The fact that Andrew Patient was
 17 resigning?
 18 Q. Was going to resign or had resigned?
 19 A. Was going to resign?
 20 Q. Did he say when?
 21 A. He did not say when.
 22 Q. Did he say that he knew when Andrew
 23 Patient was going to resign when he had this
 24 discussion with you?
 25 A. He said he knew he was resigning at